

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14364 of Woodrow Williams, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot area requirements (Sub-section 3301.1) to construct a single family detached dwelling in an R-2 District at premises 607 - 49th Place, N.E., (Square 5180, Lot 27).

HEARING DATE: December 11, 1985

DECISION DATE: December 11, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site known as premises 607 49th Place, N.E., is located on the east side of 49th Place between Foot Street and Nannie Helen Burroughs Avenue. It is in an R-2 District.

2. The subject site has a frontage of 44.99 feet along 49th Place and an average depth of 84.80 feet. It has a frontage of 42.22 feet along a 15 foot wide public alley to the rear of the site. The site is unimproved.

3. The R-2 District extends to the west and south of the subject site. A C-2-A district is located one lot north of the site and an R-5-A District is located to the east.

4. Most of the lots in the immediate area of the subject site are developed with single-family detached dwellings.

5. Pursuant to Paragraph 8207.11 of the Zoning Regulations, the applicant is seeking a variance from the lot area requirement (Sub-section 3301.1) to construct a single family detached dwelling on the subject site.

6. Paragraph 8207.11 empowers the BZA to grant an area variance where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or conditions of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to the owner of such property provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and

integrity of the zone plan as embodied in the zoning regulations and map.

7. Section 3301.1 requires a minimum lot area of 4000 square feet in order to construct a single-family detached structure. The subject lot contains 3518.71 square feet or 481.29 square feet (12 percent) less than the required amount.

8. In the period between 1966 - 1976 the applicant was ordered by the Board of Condemnation remove the house which stood on the subject site. After the structure was removed the applicant applied for a permit to build a new home on the site. The permit was not pursued as the applicant was ill for the next four years.

9. The foundation and basement plan and first floor plan of the proposed replacement dwelling were stamped with a statement that they complied with the requirements of the Zoning Regulations.

10. The dimensions of the house proposed by the subject application are the same as the dimensions of the house plans that were stamped by the Zoning Office in 1977. The house location is not the same. The current plans indicate that the house will be located the required eight feet away from the side property line instead of the four feet originally proposed.

11. Because of adverse ownership in the adjacent properties the lot size of the subject site can not be increased.

12. A one family semi detached house could be constructed as a matter-of-right on the subject site in compliance with the zoning regulations. But a semi detached house would not be built since both adjacent properties are developed with single-family detached dwellings.

13. Construction of the subject structure has begun. The footings and part of the walls are in place.

14. Advisory Neighborhood Commission (ANC) 7D did not submit a timely written report to the record. An ANC commissioner did read into the record of the public hearing the ANC's recommendation that the subject application be approved so that the applicant might go forward with the construction of the building as it has already been started. The Board notes the ANC 's approval but finds that it is not entitled to give "great weight" to the ANC's recommendations which are not reduced to written form as required by statute.

15. There was no opposition to the subject application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantially detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met the burden of proof. The practical difficulty is inherent in the land because the site is not large enough and can not be made large enough to accommodate a single-family detached dwelling which would otherwise be permitted as a matter-of-right under the Zoning Regulations. Since both properties adjacent to the subject site are developed with single family dwellings, no structure could be located on the subject lot unless a variance is first granted by the Board. Without relief from the Board the site might remain unimproved or at least not developed to its potential. The Board notes that a single family detached dwelling previously existed on the site until it was ordered demolished.

The Board notes the lack of opposition to the application. The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles R. Norris, John G. Parsons, William F. McIntosh, and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

Cecil B. Tucker by Bjm

CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER:

26 MAR 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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